

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 197 Mobile Home and Recreational Vehicle Parks
SPONSOR(S): Health Care Appropriations Committee; Military & Local Affairs Policy Committee and Gonzalez
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 354

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Nelson	Hoagland
2)	Health Care Appropriations Committee	13 Y, 0 N, As CS	Clark	Massengale
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The Florida Department of Health is responsible for enforcing laws and rules relating to sanitation and the control of communicable diseases in mobile home parks, lodging parks, recreational vehicle parks and recreational camps. The bill amends statutory provisions relating to the department’s regulation of mobile home and recreational vehicle parks by:

- revising the definition of “mobile home,” and providing a new definition of the term “occupancy” relating to recreational vehicles;
- specifying uniform laws and rules to be enforced by the department;
- requiring local governmental actions, ordinances and resolutions to be consistent with the department’s uniform standards and specifying that the authority of a local government to adopt and enforce land use, building, fire safety, and other unspecified regulations is not limited;
- requiring construction and renovation plans for parks and camps to be submitted to the department for review and approval;
- changing the deadline for applying for an operating permit from before the date of a transfer to within 30 days of a sale;
- requiring the department to assess late fees, not to exceed \$100, for failure to pay an annual operating permit fee in a timely manner;
- requiring the department to permit temporary events and to charge a new fee, not to exceed \$1,000, for such a permit;
- repealing provisions requiring the posting and advertising of site rates;
- requiring separation and setback distances to be established at the time of initial park approval;
- repealing a provision requiring guest registers to be made available for inspection by the department;
- providing for the disposal of unclaimed titled property;
- providing that a person who fails to depart from a park immediately under certain circumstances commits a misdemeanor of the second degree;
- protecting a park operator from liability for abandoned property in certain circumstances; and
- providing the department with additional rulemaking authority.

This bill requires an insignificant expenditure of funds associated with rule promulgation by the department, and provides for new fees to be paid by the public; however, these fees will be used to offset by the cost of department regulation.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Department of Health is responsible under chapter 513, Florida Statutes, for enforcing laws and rules relating to sanitation and the control of communicable diseases in mobile home parks, lodging parks, recreational vehicle parks and recreational camps. These parks and camps are licensed annually through the Department's county health departments in accordance with rule 64E-15, Florida Administrative Code. The county health departments provide direct services in the operational aspect of the program through routine inspections, plan reviews, educational programs, and enforcement actions.

The objective of this program is to minimize the risk of injury and illness in this residential environment. Department rules address minimum area requirements for each space, the water supply, sewage disposal, sanitary facilities, plumbing, garbage and refuse disposal, insect and rodent control, recreational camp standards, permits and fees, and owner's and operator's responsibilities.

There are approximately 5,700 mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida.¹ Permit fees are set by rule at \$4 per space and cumulatively must not be less than \$100 or more than \$600 annually.² The statutory range is \$3.50-\$6.50 per space and cumulatively not less than \$50 or more than \$600 annually.³

The recreational vehicle (RV) industry has indicated that individual counties and cities have enacted ordinances relating to permitting, lot sizes, and allowable sizes of vehicles in RV parks. The industry is heavily dependent upon tourism from other states, and believes that the RV traveling public should be able to camp from Pensacola to Key West under consistent standards. Out-of-state investment firms have advised the industry that uniform permitting and operation standards for camps and parks make the industry more attractive. Currently, a number of large pension fund and insurance investment firms have become involved in the industry through larger publicly-traded operating companies. Those firms have purchased and are operating RV parks and campgrounds in the state.⁴

¹ The Department of Health, Division of Environmental Health, Mobile Home and Recreational Vehicle Parks website found at: <http://www.doh.state.fl.us/environment/community/mobileindex.html>.

² Rule 64E-15.010, F.A.C.

³ Section 513.045(2), F.S.

⁴ March 17, 2010, e-mail from David Eastman, attorney for the Florida Association of RV Parks and Campgrounds.

Effect of Proposed Changes

Section 1 amends section 513.01, Florida Statutes, to revise the definition of “mobile home” and to define the term “occupancy.” The definition of “mobile home” is modified to exclude a structure originally sold as a recreational vehicle. This language is directly derived from the definition of a “mobile home” in section 723.003(3), Florida Statutes, relating to the landlord/tenant relationship in mobile home parks, and is meant to clarify that a recreational vehicle cannot “evolve” into a mobile home. The term “occupancy” is defined to mean the length of time that a recreational vehicle is occupied by a transient guest and not the length of time that such a vehicle is located on the leased recreational site. This new definition came from the language in the definition of “recreational vehicle” in chapter 513, Florida Statutes, and contains language relating to the storage and tie-down of vehicles.

Section 2 amends section 513.012, Florida Statutes, specifying that the department is responsible for establishing uniform laws under chapter 513, Florida Statutes, and specifying instances where the department is required to establish uniform standards for permitting and operation of lodging parks, recreational vehicle parks and camps, and mobile home parks, including:

- the design, location and sizes for sites in parks and camps;
- sanitary standards for permitting and the operation of parks and camps;
- occupancy standards for transient rentals in recreational vehicle parks and camps;
- permitting of parks and camps as required by the chapter, including temporary events at unlicensed locations;
- inspection of parks and camps to enforce compliance with the chapter;
- permit requirements, including late fees and penalties for operating without a permit; and
- the maintenance of guest registers.

This section also provides that chapter 513, Florida Statutes, establishes uniform standards for recreational vehicle parks and camps which apply to:

- the liability for property of guests left at sites;
- separation and setback distances established at the time of approval;
- unclaimed property;
- conduct of transient guests;
- theft of personal property;
- evictions of transient guests; and
- writs of distress.

The bill requires that local government actions, ordinances and resolutions be consistent with the department’s uniform standards, providing an exception for the authority of local governments to adopt and enforce local land use, building, fire safety, and other unspecified regulations.

Section 3 amends section 513.014, Florida Statutes, to remove a redundant provision stating that a mobile home park renting spaces to recreational vehicles for long-term leases must comply with the laws relating to mobile home parks in chapter 723, Florida Statutes. The referenced law is the “Florida Mobile Home Act” and relates to mobile home tenancies.

Section 4 amends section 513.02, Florida Statutes, to modify the terminology related to permits to designate such as *operating* permits. Inconsistent references to the transfer of permits are eliminated as these permits are not transferrable. The bill requires that prior to the commencement of construction of a new park or camp, or any change to an existing park or camp which requires construction or new sanitary facilities or additional permitted sites, a person who operates or maintains such facility must contact the department to receive a review and approval. The department is required to identify by rule the procedures and items to be submitted for review and approval. The purchaser of a park or camp must apply for an operating permit within 30 days after the date of sale, rather than before the date of the sale, as was previously required.

Section 5 amends section 513.03, Florida Statutes, to add information that must be submitted in an application for an operating permit to include the number of buildings and sites set aside for group camping, including barracks, cabins, cottages and tent spaces. The department must issue the necessary approval if it is satisfied, after reviewing the application and conducting an inspection, that the park or camp is not a source of danger to the health of the general public within the criteria established by chapter 513, Florida Statutes.

Section 6 amends section 513.045, Florida Statutes, to remove obsolete language regarding permit fees as rules have been adopted by the Department. The bill authorizes a person to submit plans related to a proposed park or camp to the department for an assessment of whether the plans meet the requirements of the chapter. A person constructing a new park or camp or adding spaces or renovating an existing park or camp is required to submit plans to the department for review and approval. These provisions appear to expand the department's authority with regard to construction review and approval.

The bill requires the department to assess a late fee, not to exceed \$100, if annual operating permit fees are not paid in a timely manner. No parameters are provided for what is considered to be "timely payment." The department suggested a late fee because there currently are no consequences associated with late payment or nonpayment.⁵ Nonetheless, it appears that section 513.054, Florida Statutes, providing that failure to pay a permit fee is a misdemeanor of the second degree would apply to these circumstances.

The bill also requires the department to establish a new fee of no more than \$1,000 for an operating permit for temporary events. The bill states that the amount of the fee will be based upon the size, duration and location of the event and the sanitary facilities and services available or to be provided at the location, and that the fee will be based solely upon the projected costs of review of the permit application and inspections by the department. There is no definition in the bill with regard to what is considered a "temporary event" and no language that indicates how this requirement would be enforced. However, this section requires the department to promulgate rules.

Section 7 amends section 513.05, Florida Statutes, authorizing the department to adopt rules related to temporary events at unlicensed locations. It also specifies the department's authority to adopt rules related to reviewing plans that consolidate or expand space or capacity.

Section 8 amends section 513.054, Florida Statutes, specifying that a person who does not obtain an *operating* permit for a mobile home park, lodging park, recreational vehicle park, or recreational camp or refuses to pay the *operating* permit fee commits a second degree misdemeanor.

Section 9 amends section 513.055, Florida Statutes, specifying that the permit referred to in this section related to the revocation or suspension of a permit is an *operating* permit.

Section 10 amends section 513.10, Florida Statutes, specifying that a person who maintains or operates a mobile home park, lodging park, recreational vehicle park, or recreational camp without first obtaining an *operating* permit or maintains or operates a park or camp after revocation of the operating permit commits a misdemeanor of the second degree.

Section 11 repeals section 513.111, Florida Statutes, relating to posting or publishing site rates for a recreational vehicle park that rents by the day or week.

Section 12 creates section 513.1115, Florida Statutes, which requires the spacing of recreational vehicles to be maintained at the distances established at the time of the initial approval of the recreational vehicle park by the department and local government. In addition, this section requires setback distances from the exterior property boundary of a recreational vehicle park to be maintained in accordance with those established at the time of the initial approval. The purpose of this language is to specify that local governments do not have the authority to impose new setback or separation distances

⁵ Id.

on existing, permitted parks and camps. The implications of this requirement with regard to future land use within local governments are unclear.

The bill also specifies that both of these sections do not limit the regulation of the uniform fire safety standards under section 633.022, Florida Statutes.

Section 13 amends section 513.112, Florida Statutes, to eliminate the requirement that the guest registry of a recreational vehicle park be made available to the department for inspection. These registries will continue to be maintained, but the department will no longer have what it considers to be a duty within the realm of landlord/tenant issues.⁶

Section 14 amends section 513.115, Florida Statutes, authorizing an operator of a recreational vehicle park to dispose of property unclaimed by a guest who has vacated the premises without notice to the operator and who has an outstanding account. An owner of a park is no longer required to provide written notice to any guest or owner of property left at the park prior to disposing of the property;⁷ however, the property must be held by the park for 90 days prior to disposal. The bill specifies that any titled property, including a boat, recreational vehicle, or other vehicle, shall be disposed of in accordance with the requirements of chapter 715, Florida Statutes, which contains provisions relating to the sale or disposition of abandoned property.

Section 15 amends section 513.13, Florida Statutes, specifying that if an operator of a recreational vehicle park notifies a person to leave the park for a permissible reason, by either posting or personal delivery, in the presence of a law enforcement officer, and the person fails to depart from the park immediately, the person commits a misdemeanor of the second degree. Permissible reasons include: possessing or dealing in controlled substances, disturbing the peace and comfort of other persons, causing harm to the physical park, or failing to pay the rental rate as agreed. This provision will ensure that law enforcement has personal knowledge that notice was given, and can take appropriate action if the person refuses to leave the premises.

Finally, the bill specifies that an operator is not liable for damages to personal property left on the premises by a guest who has been arrested for the failure to leave the park after being notified to leave for a permissible reason.

Section 16 provides an effective date for the bill of July 1, 2010.

B. SECTION DIRECTORY:

Section 1: Amends ss. (3) of s. 513.01, F.S., renumbering ss. (5) through (11) and creating a new ss. (5), relating to definitions.

Section 2: Amends s. 513.012, F.S., relating to the enforcement of public health laws.

Section 3: Amends s. 513.014, F.S., relating to applicability of recreational vehicle park provisions to mobile home parks.

Section 4: Amends s. 513.02, F.S., relating to permits.

Section 5: Amends s. 513.03, F.S., relating to application for and issuance of permits.

Section 6: Amends ss. (1) of s. 513.045, F.S., relating to permit fees.

Section 7: Amends s. 513.05, F.S., relating to rules.

Section 8: Amends s. 513.054, F.S., relating to penalties.

Section 9: Amends s.513.055, F.S., relating to revocation or suspension of permits.

⁶ Id.

⁷ This provision seems logical given the difficulty of providing notice to a transient person who has disappeared.

Section 10: Amends ss. (1) of s. 513.10, F.S., relating to operating without permit.

Section 11: Repeals s. 513.111, F.S., relating to the posting of site rates.

Section 12: Creates: s .513.1115, F.S., relating to placement of recreational vehicles on lots in permitted parks.

Section 13: Amends ss. (1) of s. 513.112, F.S., relating to maintenance of guest registers.

Section 14: Amends s. 513.115, F.S., relating to unclaimed property.

Section 15: Amends ss. (2) and (4) of s. 513.13, F.S., relating to eviction in recreational vehicle parks.

Section 16: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill requires the Department of Health to assess late fees if annual operating permit fees are not paid in a timely manner. The department estimates that approximately 10 percent of the existing 5,594 parks/camps will have to pay a late fee of \$25. This will generate revenue of approximately \$13,985 per year.

Additionally, the bill establishes a new fee of no more than \$1,000 for an operating permit for temporary events. The department estimates that there will be two temporary events per year per county at a projected fee of \$500 per event. The department has estimated this fee revenue to be approximately \$67,000 per year. The bill requires that the fee be based solely upon the projected costs of review of the permit application and inspections by the department; therefore, this revenue will be used to pay the cost of the department regulatory activities.

2. Expenditures:

This bill requires the Department of Health to adopt additional rules. The department has estimated that this will cost approximately \$4,015 for staff and associated costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires a fee, not to exceed \$100, for the late payment of the annual operating permit fee.

This bill will create a new fee, not to exceed \$1,000, for temporary events held in unlicensed locations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Health with additional rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Military & Local Affairs Policy Committee adopted the Proposed Committee Substitute for HB 197. The PCS departs from HB 197 in the following areas:

- Removes a new definition for “recreational vehicle.”
- Removes language providing for state preemption of regulatory and permitting authority for sanitary and other standards for parks and camps, while substituting language which provides for uniform laws and standards for permitting and operation of parks and camps;
- Specifies that the law will not limit the authority of a local government to adopt and enforce land use, building, fire safety, and other regulations.
- Removes language that authorized the Department of Health to charge a fee for review of plans for a proposed park or camp.
- Adds language that requires that the Department of Health to establish a fee not to exceed \$1,000 for a temporary operating permit.
- Removes language with regard to separation distances between recreational vehicles that would have allowed for such distances as historically applied by a local government.
- Adds language that specifies that any unclaimed titled property (such as a boat, car or recreational vehicle) must be disposed of in accordance with chapter 175, Florida Statutes.

On April 6, 2010, the Health Care Appropriations Committee adopted one amendment that specifies a maximum late fee assessment of \$100 if annual operating permit fees are not paid in a timely manner. The bill was reported favorably with a committee substitute.

The analysis reflects the committee substitute.